

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SHUJAA ASKARI,
Plaintiff

v.

SUPERINTENDENT KERESTES, *et al.*,
Defendants

:
:
:
:
:
:
:
:

CIVIL NO. 1:12-CV-2042

O R D E R

The background of this order is as follows:

We are presently considering a report and recommendation (“R&R”) (Doc. 19) prepared by Magistrate Judge Blewitt, wherein Judge Blewitt preformed a screening of Plaintiff’s amended complaint pursuant to the Prison Litigation Reform Act (PLRA). No objections to the R&R have been filed.¹ Upon independent review of the record, we find no error in the R&R and conclude that it should be adopted.

Also pending before us is a document entitled “Notice” (Doc. 20). This document was filed by Plaintiff and docketed as a motion for reconsideration. The document sets forth the background of the case, (Doc. 20 at 1-2), requests a “mandatory injunction of the Plaintiff’s Request for Relief” (*id.* at 4), and moves for “mandatory judgement [sic]” (*id.* at 5), apparently on the basis that Defendants have not opposed the complaint, (*id.* at 3-4). Plaintiff is not entitled to the relief he seeks.²

¹ We have reviewed a document filed by plaintiff, which is simply entitled “Notice” but was docketed as a motion for reconsideration (Doc. 20). We have considered whether this document might be construed as an objection to the R&R, but we conclude that this would not be a fair construction. This filing neither states a basis for any objections to the R&R, nor does it identify any specific portions of the R&R to which objection is made, as objections must, under Local Rule 72.3. Therefore, we find no basis to construe this document as an objection to the R&R.

² At this juncture, the court is screening Plaintiff’s complaint pursuant to the PLRA, as noted above. Defendants are not yet under any obligation to respond to the complaint, and the fact that they have not done so does not entitle Plaintiff to an injunction, judgment, or any other relief.

We will therefore deny this motion.

ACCORDINGLY, this 12th day of February, 2013, it is ORDERED that:

1. The R&R (Doc. 19) is ADOPTED.
2. Pursuant to Judge Blewitt's recommendation, it is further ordered as follows:
 - a. Plaintiff's motion (Doc. 7) for leave to proceed in forma pauperis is GRANTED.
 - b. Plaintiff's Eighth Amendment claim concerning the conditions of his confinement is dismissed with prejudice.
 - c. Plaintiff's ADA claim is dismissed with prejudice as against Defendants in their individual capacities, and dismissed without prejudice to the extent that it seeks injunctive relief against Defendants in their official capacities.
 - d. To the extent that Plaintiff seeks damages against the state actor Defendants in their official capacities, this request for relief is dismissed with prejudice.
 - e. Plaintiff's request for the court to arrest and punish Defendants for their alleged behavior is dismissed with prejudice.
 - f. Plaintiff's request for injunctive relief is dismissed without prejudice.
 - g. Plaintiff's request for declaratory relief is dismissed without prejudice.
3. Plaintiff's "Notice" motion (Doc. 20) is DENIED.
4. This case is remanded to the Magistrate Judge for further proceedings, including an R&R on any dispositive motions that may be filed.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge